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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/883,443	06/18/2001	Reinhold Elferich	DE000089	2799
24737	7590	03/26/2007	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS			BARRERA, RAMON M	
P.O. BOX 3001			ART UNIT	PAPER NUMBER
BRIARCLIFF MANOR, NY 10510			2832	
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
3 MONTHS	03/26/2007	PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/883,443	ELFERICH ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Ramon M. Barrera	2832

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 07 March 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,2 and 5-26 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 15 and 16 is/are allowed.
- 6) Claim(s) 1,2,6,8-13,17,19 and 21-25 is/are rejected.
- 7) Claim(s) 5,7,14,18,20 and 26 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 8-13, 17, 19, and 21-25 are rejected under 35 U.S.C. 102(b) as being anticipated by York, et al..

York discloses a control element having a rotary knob 32, having a magnetic circuit (18,18') and having at least one coil 38, wherein the rotary knob is supported so as to be rotatable with respect to at least a stationary part of the magnetic circuit, a sealed gap 28 between the rotary knob and the stationary part of the magnetic circuit is filled with a magnetorheologic fluid, and the coil is arranged configured (intended use) to exert a variable braking action on the rotary knob (col. 10, lines 25-30); wherein the magnetic field in the magnetorheologic fluid extends in a radial direction (via 37); wherein an electronic circuit for driving the coil has been provided, which circuit energizes the coil (col. 9, line 35-49); wherein the electronic circuit is configured (intended use) to simulate the impression of a mechanical stop in dependence on the angle of rotation of the rotary knob; wherein the electronic circuit is configured such that control latching functions and other braking functions are dependent upon an angle of rotation of the rotary knob and of the time (col. 10, lines 20-25); wherein

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the control element is configured (intended use) to control a graphical user interface 68 (by supplying data visible on the interface); wherein the control element is configured (intended use) to perform the functions of conventional controls on electrical apparatuses (10 is an electrical apparatus); wherein the rotary knob (via 34) covers at least a portion of said stationary part of said magnetic circuit. It has been held that the recitation that an element is "configured to" perform or is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over York, cited above.

York disclosed wherein the control element includes sensor 51 and a sensor wheel 47 for determining the position of the rotary knob with respect to a stationary part of the magnetic circuit. York taught the angle position sensor could be of a type known in the art (col. 4, line 52-54). York did not specifically disclose Hall sensors and a magnet wheel. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ an angle position sensor employing Hall

sensors and a magnet wheel since the examiner takes Official Notice of their use in the position sensor art.

***Allowable Subject Matter***

5. Claims 5, 7, 14, 18, 20, 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

6. Applicant's arguments filed 3/7/07 have been fully considered but they are not persuasive. Applicant contends shaft 32 of York may not be construed as a knob. However, it is the examiner's contention that York's shaft has a rightmost user interface portion (wall of socket 58) that can be described as a rounded protuberance. Applicant further asserts that York discloses that the coil is configured to exert a variable braking action on the rotor rather than the shaft/knob. Providing the broadest reasonable interpretation, due to the integral nature of the rotor and the shaft/knob, the examiner deems this limitation is inherent.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramon M. Barrera whose telephone number is (571) 272-1987. The examiner can normally be reached on Monday through Friday from 11 to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin G. Enad can be reached on (571) 272-1990. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*Ramon M Barrera*  
Ramon M Barrera  
Primary Examiner  
Art Unit 2832

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